

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #3	CCRB Case #: 201412298	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 12/08/2014 10:50 PM	Location of Incident: § 87(2)(b)	Precinct: 108	18 Mo. SOL 6/8/2016	EO SOL 6/8/2016	
Date/Time CV Reported Wed, 12/10/2014 3:18 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 12/10/2014 3:18 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Bryan Bromley	00917	938118	108 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Duvaughn Clacken	17354	941564	108 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Bryan Bromley	Abuse: PO Bryan Bromley stopped an individual.	
B.POM Bryan Bromley	Abuse: PO Bryan Bromley frisked an individual.	
§ 87(4-b) § 87(2)(g)		

Case Summary

On December 10, 2014, complainant/witness § 87(2)(b) filed this complaint with the CCRB via telephone on behalf of an unidentified individual.

On December 8, 2014, at approximately 10:50 p.m., PO Bryan Bromley and PO Duvaughn Clacken of the 105th Precinct responded to a 911 call regarding a shoplifter at a Rite-Aid store at 46-12 Greenpoint Avenue in Queens. When they arrived at the Rite-Aid, store employees were holding an unidentified Asian male who spoke little English (henceforth referred to as “the victim”). The employees said the victim was seen behind the counter and believed he had taken store merchandise. The officers asked the employees if they saw him take anything and they said they did not. The victim was compliant throughout the encounter, did not pose a threat, and did not have any items on his person that appeared to be a weapon. In order to ensure his safety, PO Bromley frisked the victim for weapons (**Allegations A and B**) with negative results. Because the employees did not witness the victim steal any merchandise, the officers let the victim leave the store without summoning him. § 87(4-b), § 87(2)(g)

Mediation, Civil and Conviction Histories

- Mediation was offered to complainant/witness § 87(2)(b) during her initial intake call on December 10, 2014. § 87(2)(b) did not know whether she wanted the complaint mediated or investigated. § 87(2)(b) missed two scheduled interviews and was ultimately truncated from the case (encl. 13A-F).
- No individual has filed a Notice of Claim with the City of New York as of March 6, 2015 with regard to this incident (encl. 15K).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] .

Civilian and Officers’ CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 3A).
- This is the first CCRB complaint filed against PO Bromley during his nine year tenure (encl. 2A).

Potential Issues

- Because the witnesses had no established relationship with the victim and neither PO Bromley nor PO Clacken recorded the victim’s identity in their memo books or in a UF250, victim remains unidentified. However, the entire incident, including the frisk, is captured on the store’s surveillance footage, which the CCRB has in its possession (encl. 7A).

Findings and Recommendations

Allegations Not Pleaded

- § 87(2)(b) alleged that PO Bromley searched the victim but did not identify where he was searched. Former Rite-Aid salesperson § 87(2)(b) stated that the victim was frisked but was not searched. At 10:53:20 p.m., the surveillance footage shows PO Bromley frisking the victim’s sides from his waist to his ankles. The footage is very choppy and it is unclear whether PO Bromley entered any of the victim’s pockets. PO Bromley acknowledged frisking the victim but denied entering any of his pockets (encl. 9E). § 87(2)(g)

Allegation A: PO Bryan Bromley stopped § 87(2)(b)

Rite-Aid employee § 87(2)(b) called 911 and stated that a uniformed security guard at the Rite-Aid was holding § 87(2)(b) in regards to an alleged shoplifting incident (encl. 5A). As evidenced by the surveillance footage, when the officers arrived, two store employees in dark-colored sweaters and light-colored pants were standing on either side of the victim. A Rite-Aid employee identified the victim as the alleged shoplifter to the officers.

In order for a stop to be justified, an officer must have reasonable suspicion that a person is committing, has committed, or is about to commit a crime (People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 1A-K)).

§ 87(2)(g)

Allegation B: PO Bryan Bromley frisked § 87(2)(b)

§ 87(2)(b) stated that PO Bromley searched the victim after PO Clacken said they could not do so. § 87(2)(b) stated that PO Bromley frisked the victim for weapons and that the victim was compliant and non-threatening, did not have any bulges in his jacket or waistband, and did not have any items on his person that appeared to be a weapon. The 911 call specified that the victim was not in possession of a weapon (encl. 5A, 11A). At 10:53:20 p.m., the surveillance footage shows PO Bromley frisking the victim's sides from his waist to his ankles. PO Bromley and PO Clacken stated that PO Bromley frisked the victim for weapons in order to ensure their safety and did not locate any weapons. According to PO Bromley, the victim was compliant throughout the encounter, did not pose a threat, and did not have any items on his person that appeared to be a weapon. PO Clacken generally corroborated PO Bromley's statement. § 87(2)(g)

In order to frisk a person, an officer must have reasonable suspicion that the person is armed (People v. DeBour, 40 N.Y.2d 210 (1976) (encl. 1A-K)).

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Pod: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date